On page 1, lines 2-6, please replace "the application number 09/231,049 and the filing date of January 14, 1999" with --the serial number 09/231,409, filed January 14, 1999, and now U.S. patent 6,282,517--.

On page 16, lines 24-27, please replace "the application number 09/231,049 and the filing date of January 14, 1999" with --the serial number 09/231,409, filed January 14, 1999, and now U.S. patent 6,282,517--.

On page 22, lines 11-15, please replace "the application number 09/231,049 and the filing date of January 14, 1999" with --the serial number 09/231,409, filed January 14, 1999, and now U.S. patent 6,282,517--.

REMARKS

Claims 1-52 are pending in this application. The Examiner withdrew Claims 1-37 and 41-52 from consideration, and rejected Claims 38-40. In particular, the Examiner rejected Claims 38-40 under 35 U.S.C. § 102(e) as being anticipated by Fisher et al, U.S. Patent No. 5,835,896 (the "Fisher patent"), Barzilai et al, U.S. Patent No. 6,012,045 (the "Barzilai patent"), and Mori et al, U.S. Patent No. 6,044,363 (the "Mori patent").

REJECTION OF CLAIMS 38-40 UNDER 35 U.S.C. § 102(e)

The Fisher Patent

The Examiner rejected Claims 38-40 under 35 U.S.C. § 102(e) as being anticipated by the Fisher patent.

According to the Examiner, the Fisher patent discloses an online product auction system, including microprocessor and storage media (e.g., figure 1; column 7, line 24 et seq), first and second bid data with first, second, third, and fourth bids, the second and fourth bids (e.g., proxy bids) (figure 7) being at least as large as the first and third bids, respectively (e.g., column 9, line 17 et seq), bid processing module (e.g., column 10, line 5 et seq; column 11, line 20 et seq), current and new high bid (e.g., figures 6-10; column 9, line 1 et seq; column 10, line 40 et seq; column 11, line 65 et seq). Also, according to the Examiner, the Fisher patent discloses first and second calculation modes to calculate a high bid in first and second respective states (e.g.,

"Dutch Auction" and "Progressive Auction' formats) (e.g., column 10, line 29 et seq). In view of the following discussion, Applicant respectfully traverses this rejection.

Applicant respectfully submits that the claims as previously pending are patentably distinguished over the Fisher patent the other cited references or any combination thereof. As cited by the Examiner at column 9, line 17 et seq of the Fisher patent:

> "The *bid manager then checks* 67 to see if there are any active
> *proxy bids marked as unsuccessful.* A proxy bid is a special bid
> type that allows auction manager 26 to *automatically bid on the*
> *bidder's behalf up to a limited amount established by the bidder*
> *when his or her initial bid is placed.* The auction manager will
> increase the bid as necessary up to the limit amount." (emphasis
> added)

Therefore, the Applicant asserts that the Fisher patent teaches an invention that comprises a bid manager that checks for bids marked as unsuccessful and automatically bids (i.e. increases a bidder's bid) on a bidder's behalf, up to a limited amount established by the bidder at the time the initial bid is placed by the bidder. Thus, the Applicant asserts that the portions of the Fisher patent cited by the Examiner teach an automatic bid incrementation system based on an amount entered by a bidder when the bidder enters the initial bid.

Because the reference cited by the Examiner does not disclose, teach or suggest an invention comprising a first bid data, including a first bid and a second bid (second bid being at least as large as the first bid) and a second bid data, including a third bid and a fourth bid (fourth bid being at least as large as the third bid), Applicant asserts that Claims 38 and 40 are not anticipated by the Fisher patent. Applicant therefore respectfully submits that Claims 38 and 40 are patentably distinguished over the cited reference and Applicant respectfully requests allowance of Claims 38 and 40.

Claims 39 which depends from Claim 38, is patentable for the same reasons articulated above with respect to Claim 38, and because of the additional features recited in Claim 39.

The Barzilai Patent

The Examiner rejected Claims 38-40 under 35 U.S.C. § 102(e) as being anticipated by the Barzilai patent.

According to the Examiner, the Barzilai patent discloses an online product auction system (e.g., column 1, line 52 et seq), including microprocessor and storage media (e.g., Figure 1), first and second bid data with first through fourth bids, wherein the second and fourth bids are at least as large as the first and third bids, respectively (e.g., Figures 6A-10; column 2, line 1 et seq; column 6, line 1 et seq; column 13, line 25 et seq; column 14, line 10 et seq; column 15, line 60 et seq), bid processing module (e.g., column 2, line 41 et seq; column 13, line 26 et seq), current and new high bid calculation (e.g., Figure 7; column 2, line 41 et seq; column 17, line 17 et seq; column 18, line 8 et seq). Also, according to the Examiner, the Barzilai patent discloses first and second calculation modes in first and second respective states (e.g., real play versus game play) (e.g., column 2, line 41 et seq; column 20, line 11 et seq). In view of the following discussion, Applicant respectfully traverses this rejection.

Applicant respectfully submits that the claims as previously pending are patentably distinguished over the Barzilai patent the other cited references or any combination thereof. As cited by the Examiner at column 2, line 1 et seq of the Barzilai patent:

> "It is an additional object of the present invention *to permit the user to place a reasonable number of bids* (up to 8 bids in a preferred embodiment) on a single product or service *whereby the system accepts* (a) the highest bid submitted by all bidding customers and (b) *excludes all bids greater than the lowest high bid from a group of bids submitted by a single bidder* for the *particular product or service." (emphasis added)

Therefore, the Applicant asserts that the portions of the Barzilai patent cited by the Examiner teach an invention that allows a bidder to place multiple bids on product or service, but excludes those bids greater than the lowest high bid from the multiple bids submitted by the bidder. Thus, the Barzilai invention acts as an acceptance filter for multiple incoming bids from a single user, thereby protecting a bidder from placing a bid that is unnecessarily high.

Because the reference cited by the Examiner does not disclose, teach or suggest an invention comprising a first bid data, including a first bid and a second bid (second bid being at least as large as the first bid) and a second bid data, including a third bid and a fourth bid (fourth bid being at least as large as the third bid), Applicant asserts that Claims 38 and 40 are not

anticipated by the Barzilai patent. Applicant therefore respectfully submits that Claims 38 and 40 are patentably distinguished over the cited reference and Applicant respectfully requests allowance of Claims 38 and 40.

Claims 39 which depends from Claim 38, is patentable for the same reasons articulated above with respect to Claim 38, and because of the additional features recited in Claim 39.

The Mori Patent

The Examiner rejected Claims 38-40 under 35 U.S.C. § 102(e) as being anticipated by the Mori patent.

According to the Examiner, the Mori patent discloses an online product auction system, including microprocessor and storage media (e.g., figure 2), first and second bid data with first through fourth bids, wherein the second and fourth bids are at least as large as the first and third bids, respectively (e.g., column 2, line 28 et seq; column 6, line 19 et seq; column 7, line 5 et seq), bid processing module (e.g., column 10, line 24 et seq; column 11, line 5 et seq; column 14, line 3 et seq), current and new high bid calculation (e.g., column 11, line 5 et seq; column 12, line 32 et seq; column 14, line 3 et seq), and first and second calculation modes calculating a high bid when the product auction system is in a first and second state (e.g., determination of various states of competition; descending price method; concrete automatic auction method) (e.g., column 8, line 21 et seq; column 9, line 60 et seq; column 10, line 24 et seq; column 11, line 6 et seq; column 13, line 55 et seq).

Applicant respectfully submits that the claims as previously pending are patentably distinguished over the Mori patent, because the reference, and the example portions within the reference, cited by the Examiner do not disclose, teach or suggest an invention comprising a first bid data, including a first bid and a second bid (second bid being at least as large as the first bid) and a second bid data, including a third bid and a fourth bid (fourth bid being at least as large as the third bid). Thus, the Applicant asserts that Claim 38 and 40 are not anticipated by the Mori patent. Applicant therefore respectfully submits that Claims 38 and 40 are patentably distinguished over the cited reference and Applicant respectfully requests allowance of Claims 38 and 40.

Claims 39 which depends from Claim 38, is patentable for the same reasons articulated above with respect to Claim 38, and because of the additional features recited in Claim 39.

REQUEST FOR TELEPHONE INTERVIEW

Pursuant to M.P.E.P. § 713.01, in order to expedite prosecution of this application, Applicant's undersigned attorney of record hereby formally requests a telephone interview with the Examiner as soon as the Examiner has considered the effect of the arguments presented above. Applicant's attorney can be reached at (949) 721-2814.

CONCLUSION

In view of the forgoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain to be resolved, the Examiner is cordially invited to contact the undersigned such that any remaining issues may be promptly resolved. Also, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 4/12/02

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

The changes made to the specification in the current amendment are shown below in marked up form. Deletions are indicated by brackets and bold type, and insertions are indicated by underlining.

Paragraphs in the Specification beginning on page 1, line 3; page 16, line 15; and page 22, line 9 have been amended as follows:

-- The present application is related to the co-pending and commonly owned U.S. Patent application entitled REAL TIME COMMUNICATION OF PURCHASE REQUESTS having **[the application number 09/231,049 and the filing date of January 14, 1999]** the serial number 09/231,409, filed January 14, 1999, and now U.S. patent 6,282,517, and which is hereby incorporated herein by reference in its entirety.

-- At a step 204, the seller submits a vehicle to be auctioned off by the auction center 106. Each vehicle comprises a unique vehicle auction. In one embodiment, the seller can submit vehicles to the auction center 106 one vehicle at a time. Each vehicle can be identified by a set of product data stored in memory which is associated with the vehicle. The product data may advantageously be comprised of a vehicle identification and one or more seller parameters. A product receive module is configured to execute in the auction center 106 and received the product data associated with the vehicle. In another embodiment, the seller may also submit one or more sets of product data into the auction center 106 from a database. As an example, the product data may be contained in a database of the type detailed in the co-pending and commonly owned U.S. Patent application entitled REAL TIME COMMUNICATION OF PURCHASE REQUESTS having **[the application number 09/231,049 and the filing date of January 14, 1999]** the serial number 09/231,409, filed January 14, 1999, and now U.S. patent 6,282,517, and which is hereby incorporated by reference in its entirety. In particular, the database can be comprised of one or more used vehicle records detailed in the aforementioned patent application. Those of ordinary skill in the art will realize that the database may be local to the online product auction system 104 or remotely located, and thus, connected to the online product auction system 104 via the network 102.

-- In one embodiment, a vehicle auction becomes visible to, and accessible by, potential

bidders through the online product auction system 104 upon transitioning from a review state to a

preview state. In one embodiment, the potential bidders are the vehicle dealers having access to

the Data Center system detailed in the co-pending and commonly owned U.S. Patent application

entitled REAL TIME COMMUNICATION OF PURCHASE REQUESTS having **[the**

application number 09/231,049 and the filing date of January 14, 1999] the serial number

09/231,409, filed January 14, 1999, and now U.S. patent 6,282,517, and which is hereby

incorporated by reference in its entirety. Upon transitioning into the preview state, the vehicle

auction advantageously remains in the preview state for six (6) twenty-four (24) hour periods.

The auction center 106 is advantageously configured to not accept seller modifications to the

product data or the seller parameters associated with a vehicle auction that is beyond the review

state. Moreover, the seller may advantageously not be permitted to remove a vehicle auction that

is beyond the review state from the online product auction system 104. In another embodiment,

the auction center 106 may permit the seller to modify seller parameters in order to request seller

proxies even if the vehicle auction is beyond the review state.